

ADM-15.01, "Repayment of Costs by Inmates,"

SCDC POLICY

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TITLE:REPAYMENT OF COSTS BY INMATES

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AUTHORITY: DIVISION OF FINANCE

SUPERSEDES: ADM-15.01 (May 1, 2009); (June 1, 2007)

RELEVANT SCDC FORMS/SUPPLIES: 19-69, 19-106: Attachment 1

ACA/CAC STANDARDS:4-ACRS-3A-01, 4-4226, 4-4232

STATE/FEDERAL STATUTES: S.C. Code Ann. §24-13-80 (Supp. 2000)

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: To set forth guidelines for payment of certain costs authorized to be charged to an inmate pursuant to South Carolina Code of Laws.

POLICY STATEMENT: The South Carolina Department of Corrections (SCDC) will authorize a reasonable deduction to be made from an inmate's account to repay the costs associated with: (1) state property willfully damaged, destroyed, or stolen by the inmate; (2) medical treatment for injuries inflicted by the inmate upon himself/herself or others; and (3) quelling a riot or other disturbance in which the inmate is involved. In addition, extraordinary costs associated with the search and apprehension of an inmate who escapes or attempts to escape may be charged to an inmate. (4-ACRS-3A-01, 4-4226)

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SPECIFIC PROCEDURES:

1. TYPE OF COSTS AUTHORIZED TO BE ASSESSED FROM AN INMATE'S ACCOUNT : South Carolina statute allows the Agency Director to authorize the following costs to be deducted from an inmate's account to reimburse the state under the circumstances listed below:

1.1 Reasonable costs may be charged against an inmate's account to repay the costs of:

- state property willfully damaged, destroyed, or stolen by an inmate(s) during incarceration;
- medical treatment for injuries inflicted by an inmate(s) on him/herself or others, unless the inmate is found to be mentally ill to an extent that s/he is not in full control of his/her behavior as determined by a mental health care professional; and/or
- quelling a riot or other disturbance in which an inmate is unlawfully involved.

1.2 Extraordinary Costs: Such costs may be deducted from an inmate's account to reimburse the state for the costs associated with searching for and apprehending an inmate when s/he escapes or attempts to escape.

2. REPORTING INCIDENTS: The staff member who witnesses or discovers an incident as described above will complete a SCDC Form 19-29A, "Incident Report," and will submit it to his/her Shift Supervisor. (4-4232)

3. RESPONSIBLE AUTHORITIES FOR COST DATA: Upon receipt, the Shift Supervisor will review SCDC Form 19-29A in compliance with SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System." Upon review, the supervisor will make a determination whether to refer the inmate to the Major/Responsible Authority (Responsible Authority includes the Warden, Associate Warden, or Duty Warden, or for institutions with no Major assigned, the Captain) for disciplinary action. The supervisor will document his/her review in the space provided on SCDC Form 19-29A. The Major/Responsible Authority will review the report and identify any incidents that meet the policy criteria for repayment of costs. If it is determined that the incident does meet the criteria for repayment of costs, s/he will obtain the necessary cost data (estimated or actual) by contacting any or all of the following applicable sources:

- For incidents involving the destruction or damage of state owned or operated buildings, structures, or equipment, the Director of Facilities Management/Designee will be contacted. The inmate who caused the destruction/damage will also be required to pay \$65.00 per hour for labor to repair the damages, as well as any other costs incurred.
- For incidents involving the destruction or damage of state property issued to an inmate by the SCDC, the Director of Support Services/Designee will be contacted.
- For self-inflicted injuries or injuries to others, the inmate who caused the injuries will be charged restitution of \$50.00 for services provided by SCDC Medical. If the injured inmate or others requires outside treatment, the inmate who caused the injury will also be required to pay for all costs incurred, to include, but not limited to EMS (or Medivac), emergency room, all Outpatient services, to include the Emergency Room, physicians, lab fees, all outpatient services, personal items (i.e., necessary prostheses such as eyeglasses, hearing aids, etc.) that are damaged or destroyed, not to exceed \$250.00 per item, per incident, and \$50.00 for security/transportation. To obtain outside medical bills paid, please e-mail accountspayable@doc.sc.gov.
- For costs associated with quelling a riot or other disturbance in which an inmate was involved, the Division Director of Security or designee will be contacted; and/or
- For extraordinary costs associated with escape, apprehension, or attempted escape, the Division Director of Security or designee will be contacted. (4-ACRS-3A-01, 4-4226)

4. TOTAL COST ESTIMATE: Upon receipt of the cost information referred to in Paragraph #3., above, the Major/Responsible Authority will prepare a total cost estimate to be charged to the inmate as restitution (See Attachment #1). The cost estimate will include the following information:

- Individuals contacted to obtain cost information (as described in Paragraph #3., above);
- Date of alleged incident and type of incident;
- Type of costs and total estimated costs associated with each (e.g., property replacement or repair, medical costs, personnel costs);
- Purchase order number(s) and/or invoice number for property that has been destroyed and needs to be (or has been) replaced;
- Work order number(s) for property that has been damaged and needs to be (or has been) repaired;
- If applicable, a breakdown of the estimated medical costs (i.e., staff time, supplies, treatment, etc.) provided by medical personnel;
- If applicable, a breakdown of non-exempt employee overtime costs (or hours) associated with escape, apprehension, or extradition provided by the Division Director of Security;
- If applicable, a breakdown of the costs associated with quelling a riot or disturbance provided by the Division Director of Security.

5. DISCIPLINARY RESTITUTION PROCEDURES:

5.1 Using the procedures in SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System," the Major/Responsible Authority will decide to resolve the incident either by Informal Resolution, Administrative Resolution, or by referring the incident to a Disciplinary Hearing.

5.2 If the incident is resolved by Informal Resolution or Administrative Resolution, the Major/Responsible Authority will determine the financial responsibility of the inmate(s) and will provide the amount of restitution in the appropriate block of SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution."

5.3 If the incident is resolved by a Disciplinary Hearing, the Hearing Officer will determine the financial responsibility of the inmate(s) and will provide the amount of restitution using information provided by the Major/Responsible Authority, (on Form 19-106 or 19-69), of the fees incurred by the inmate. Under no circumstances will the DHO arbitrarily impose money restitution.

5.4 If all cost data is not available at the time of the hearing, additional restitution may be charged to the inmate at a later time by scheduling another Informal Resolution, Administrative Resolution, or disciplinary hearing, pursuant to SCDC Policy/Procedure OP-22.14, "Inmate Disciplinary System." Under no circumstances will any deductions be made from an inmate's account until such a time that the inmate has been afforded the opportunity to resolve charges by Informal Resolution, Administrative Resolution, or by a disciplinary hearing and his/her financial responsibility has been assessed.

6. RESTITUTION REVIEW AND ENTRY INTO THE AUTOMATED SYSTEM:

6.1 Restitution of Less than \$100.00: If an inmate is found guilty and ordered to pay less than \$100.00 in restitution as the result of an Informal Resolution or Administrative Resolution or disciplinary hearing, a copy of the SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution," or a copy of SCDC Form 19-69, "Disciplinary Report and Hearing Record," along with a copy of the cost information (See Attachment #1) will be sent to the employee designated by the Warden to enter inmate restitutions into the automated system. For all restitutions less than \$100.00, the entry will be made at the institution.

6.2 Restitution of \$100.00 or More: If an inmate is found guilty and ordered to pay \$100.00 or more in restitution as the result of a major disciplinary hearing, Informal Resolution, Administrative Resolution, or disciplinary hearing, a copy of the SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution," or a copy of SCDC Form 19-69, "Disciplinary Report and Hearing Record," along with an attached copy of the cost estimate described in Procedure #3, (See Attachment #1) above, will be sent to the Division of Finance. The Division of Finance will review the cost estimate to ensure that the costs are justified and will process it according to the following procedures:

6.2.1 If the Division

of Finance determines that the cost estimate is not justified or is excessive, the Division Director will explain the findings to the employee who signed the copy of the SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution," or SCDC Form 19-69, "Disciplinary Report and Hearing Record," in writing. If the resolution of the cost differences results in a decrease in the amount of restitution to be charged to the inmate, the employee who signed the 19-106 or 19-69 will revise the form and the decreased amount of restitution will be processed by the Division of Finance. The inmate will be provided with a revised copy of the 19-106 or 19-69 for information purposes.

6.2.2 If the Division of Finance determines that the cost estimate should be increased based on additional evidence, the Major/Responsible Authority or the Disciplinary Hearing Officer will schedule a re-hearing pursuant to the provisions of SCDC Policy/Procedure OP-22.14. (NOTE: Pursuant to SCDC Policy/Procedure OP-22.14, penalties imposed as a result of a re-hearing may not exceed those imposed at the initial hearing unless additional evidence has been presented that justifies the increase.) At the conclusion of the hearing, the Major/Responsible Authority or the Disciplinary Hearing Officer will forward a completed copy of SCDC Form 19-106, "Inmate Disciplinary System Informal/Administrative Resolution," or SCDC Form 19-69, "Disciplinary Report and Hearing Record," along with a copy of the cost estimate, (See Attachment #1) to the Division of Finance for processing.

6.2.3 The Division of Finance will be responsible for establishing the initial deduction to be made from an inmate's account(s) and for maintaining records of all payments and balances. All funds assessed for costs against an inmate for purposes of restitution will be taken pursuant to the order of priority and guidelines described in paragraph 7., below until the total amount of restitution has been paid.

6.3 Lost Inmate Identification Cards and Keys: For information regarding lost inmate identification cards and keys, refer to SCDC Policies/Procedures OP-21.06, "Inmate Identification Cards," and OP-22.17, "Key

Control."

7. ORDER OF PRIORITY FOR RESTITUTION: If a determination is made that restitution will be ordered, collection will occur in the following sequence: (Changes in Blue below, amended by Change 1 to ADM-15.01, dated February 13, 2018.)

7.1 All E. H. Cooper Trust Fund monies in excess of \$6.43 at the time that the Division of Budget & Finance receives the final SCDC Form 19-106 or 19-69;

7.2 All Work Program monies in excess of \$6.43 at the time that the Division of Budget & Finance receives the final SCDC Form 19-106 or 19-69 form;

7.3 ~~Subsequent E. H. Cooper Trust Fund monies in excess of \$6.43. (At any time that an inmate's account exceeds \$6.43, the Division of Finance~~ may use all funds in excess of \$6.43 to pay restitution); and If an inmate does not have enough funds in their E. H. Cooper Trust or Work Program Funds to cover the entire amount owed, the remaining balance will be deducted as a percentage of future deposits. SCDC deducts no more than 60% of the deposit to cover restitution owed by the inmate. If an inmate is indigent (E. H. Cooper Trust Fund account balance and/or deposits for a thirty day period has not exceeded \$6.43), no deductions will be taken that would bring the final E. H. Cooper Trust Fund account balance below \$6.43.

7.4 Subsequent Work Program monies in excess of \$6.43. (At any time that an inmate's account exceeds \$6.43, the Division of Budget & Finance may use all funds in excess of \$6.43 to pay restitution.)

(NOTE: Because of federal guidelines associated with Prison Industries Private Sector Long Term Savings monies, these funds are not available for payment of restitution.)

(NOTE: Refer to SCDC Policy ADM-15.12, "E. H. Cooper Trust Fund," for additional restitution deductions.)

8. GUIDELINES FOR POSTING PAYMENTS AND MAINTAINING RECORDS OF AMOUNTS DUE:

8.1 All funds received from restitution payments will be posted to centralized budget units for maintenance, medical, and security programs by personnel from the Division of Finance.

8.2 An assessment of restitution will be considered as a debt to the SCDC satisfied only by payment in full or upon the death of the inmate. If restitution has not been satisfied at the time of an inmate's release, the Division of Finance will maintain a record of the inmate's balance at the time of his/her release. In the event that the inmate should be readmitted to the SCDC, the Division of Finance will begin withholding the inmate's funds in the order of priority established in Paragraph 7., above.

8.3 For medical costs only, state statute also allows the SCDC to initiate an action for the collection of medical costs against an inmate upon his/her release or, if the inmate was executed or died while in custody, against his/her estate. Decisions regarding such actions will be made by the Office of General

Counsel on a case-by-case basis. Division of Finance personnel will be responsible for bringing information to the Office of General Counsel for purposes of making such decisions.

9.RESTITUTION REVERSAL DUE TO OVERTURN OF DISCIPLINARY ACTION: If a disciplinary action which had related restitution costs assessed is overturned, the institution processing the disciplinary will be responsible for ensuring the reversal of the restitution and any related refund of restitution payments.

9.1 The institution will determine if the restitution cost assessment has been made for this incident by inquiring in the automated restitution system.

9.2 If the cost has been assessed, the institution will provide a copy of the disciplinary action overturn and a copy of the restitution entry to the Inmate Trust Fund Section in the Division of Finance with a request to write-off the remaining restitution balance.

9.3 Refund: If the refund is \$50.00 or less the Division of Finance is responsible for processing the refund to the inmate's E.H. Cooper Account. If the refund is greater than \$50.00 the institution is responsible for processing the refund request for any payments deducted prior to the write-off of the restitution record balance owed. To process a refund, the institution must enter a requisition into the automated CRT system to issue a check to the inmate from the institution budget. If the inmate is still at SCDC, the check should be issued to the inmate in care of the SCDC Cooper Trust Fund. The institution will submit one set of copies of the disciplinary overturn documentation and restitution system screen showing total payments deducted to the Purchasing Branch to support issue of the purchase order. Upon issue of the purchase order, the institution will submit another copy of these documents with the purchase order number noted to the Division of Finance, Accounts Payable Section. The institution must "receive" the purchase order to allow processing. The institution will not be required to write a memorandum to the Director, Division of Finance unless specifically requested.

10. DEFINITIONS:

Extraordinary Costs refers to those costs that are over and above normal operating costs that would not have been incurred by the SCDC or the state of South Carolina had the incident not occurred. By statute, the term "extraordinary costs" only applies to those costs incurred by the SCDC or the state of South Carolina as a consequence of an escape or attempted escape. For purposes of this policy/procedure, these costs would include such items as overtime costs for staff used to apprehend and/or search for an inmate, extradition costs, mileage, phone calls, etc.

Medical Treatment refers to charges incurred by an inmate for each visit to a physician, physician's extender including a physician's assistant, nurse practitioner, nurse, dentist, optometrist, or psychiatrist for examination or treatment as provided by these procedures. Personnel costs, as well as the costs for equipment and supplies used to treat the inmate and transportation costs, are included under this definition.

Reasonable Costs (Deductions), for the purpose of this policy/procedure, refers to the costs to be established by the Department for (1) the replacement or repair of state property willfully damaged or destroyed, or stolen by an inmate; (2) the medical treatment afforded an inmate(s) for injuries inflicted on himself/herself or others; and (3) the quelling of a riot or other disturbance. Depending upon the situation, any combination of costs can be charged to an inmate. For example, inmates can be charged for the replacement or repair of the state property they destroyed and for the cost of their medical treatment.

State Property refers to any property owned or leased by the State of South Carolina or the South Carolina Department of Corrections (SCDC), to include, but not limited to, education related property, and property issued to an inmate by the SCDC and all buildings, structures, and equipment owned or used by the state of South Carolina or the SCDC.

SIGNATURE ON FILE

—
s/ Bryan P. Stirling, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE OFFICE OF POLICY DEVELOPMENT.

Attachment 1: COST ESTIMATE FOR REPAYMENT OF RESTITUTION BY INMATES Form